THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.12742 of 2005

Dated 24-03-2006

Between:

Veeravalli Samrajyam.

.... PETITIONER

AND

The Executive Officer, Vijayawada.

.....RESPONDENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.12742 of 2005

O R D E R:

The petitioner seeks a writ of Mandamus declaring the alleged action of the respondent in asking the petitioner to vacate the land to an extent of Ac.6-14cents in survey Nos.167, 55/2, 55/4 and 55/5 without issuing any notice under Rule 5 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (hereinafter referred to as 'the Rules') framed under G.O.Ms.No.379, dated 11-03-203, and without following the due procedure as arbitrary and illegal.

It is not in dispute that the petitioner was the cultivating tenant of the land belonging to Sri Ramalingeswara Swamy Vari Devasthanam, Gudavalli Village, Krishna District, and the total extent of the land in his possession was Ac.6-14 cents. Thus he is not a landless poor person as defined under the explanation to Section 82(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act 30 of 1987 (hereinafter referred to as 'the Act'). However, the petitioner contends that even assuming that he is not a landless poor, the respondent cannot dispossess him without issuing any notice of termination as required under the Rules framed in G.O.Ms.No.379 dated 11-03-2003. It is also contended that since the land admittedly belonging to Sri Ramalingeswara Swamy Vari Devasthanam, the auction notice dated 23-05-2005 issued by the respondent is without jurisdiction and the respondent has no power to take any steps to dispossess the petitioner.

In response to the Rule Nisi ordered on 20-06-2005, the respondent filed a counter-affidavit stating that since the petitioner was not a landless poor person, tenancy in his favour stood terminated on commencement of the Act 30 of 1987 and thereafter the respondent issued a notice dated 21-04-2003 under Rule 5 (1) of the Rules and the same was received by the petitioner on 09-05-2003. It is also pleaded that Sri Ramalingeswara Swamy Vari Devasthanam was adopted by the respondent to fulfill the day-to-day activities by investing whatever amount was necessary for performance of Nitya Pujas etc., and thus all the activities are being managed by the respondent alone.

The version of the respondent has not been contradicted by the petitioner and no other material has been placed before this Court to show that Sri Ramalingeswara Swamy Vari Devasthanam is not under the control of the respondent.

In the circumstances, I do not find any substance in the contentions raised by the petitioner. That apart as held by a Division Bench of this Court in W.P.No.4974 of 2005 and batch, by common order dated 24-06-2005, the persons who held leases under Section 82 of the Act and whose leases stood terminated, cannot be termed as encroachers and once the leases in their favour stood terminated, it is open to the respondent to auction the leasehold rights of the land in terms of Rule 7 of the Rules.

Having regard to the ratio laid down by the Division Bench in the above decision, the contention of the petitioner that the respondent ought to have initiated steps under Section 83 (4) of the Act is without any substance.

For the above reasons, the writ petition, which is devoid of any merit, is accordingly dismissed. However, the learned counsel for the petitioner, across the Bar, submits that there is a standing crop on the land in question and therefore, the petitioner may be permitted to harvest the same. In case there is any standing crop on the land in question, the petitioner is granted liberty to make an appropriate

application before the respondent, in which event the same shall be considered and appropriate orders be passed in accordance with law. No costs.

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(G. ROHINI, J)

Date:24-03-2006

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